

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

1/8740  
Melody

PL 2

FILE: B-207279.2

DATE: June 16, 1982

MATTER OF: Robert E. Robocker--Request for Reconsideration

**DIGEST:**

The mere fact that an agency may be willing to further consider a protest it first rejects does not toll the running of the period for filing a protest with GAO, and our prior decision--holding that a protest was untimely since filed more than 10 days after the protester learned of the initial adverse agency action--is affirmed.

Dr. Robert E. Robocker requests reconsideration of our decision in Robert E. Robocker, B-207279, May 10, 1982, 82-1 CPD \_\_\_\_, where we dismissed as untimely a protest of award under solicitation No. GS-09B-09212, issued by the General Services Administration (GSA) for leased office space. We found the protest untimely because it was not filed in our Office within 10 working days after Dr. Robocker learned that his initial protest to the contracting officer had been denied as required by our bid protest procedures.

Dr. Robocker, instead of protesting here, asked GSA to reconsider its decision, and filed a protest in our Office only after GSA denied the protest for a second time. Dr. Robocker contends that timeliness should have been measured from notice of this second denial rather than the initial denial since GSA offered to reconsider its initial decision. We do not agree.

We find nothing in the record which constitutes an offer on GSA's part to reconsider its initial denial of Dr. Robocker's protest. Even assuming, however, that GSA did make such an offer, this fact alone does not warrant reversal of our May 10 decision. The timeliness provisions of our procedures are strictly construed, J.J. Broderick Company, B-204506, November 23, 1981, 81-2 CPD 419, and the mere fact that an agency may be willing to further consider a protest it first rejects

does not toll the running of the period for filing a protest with this Office. Information International, Inc., B-191013; B-191013.2, August 8, 1980, 80-2 CPD 100. Similarly, the deadline for filing a protest with our Office cannot be extended by agreement between the protester and the agency. Thus, whether or not GSA was willing to reconsider its initial decision on the protest, Dr. Robocker was required to file any protest in our Office no later than 10 working days after learning of GSA's initial decision denying his protest. 4 C.F.R. § 21.2(a). Because Dr. Robocker did not do so, his protest was untimely.

It should be noted that the above rule generally applies even where it is alleged that the agency's actions lulled or misled the protester into untimely protesting to our Office. See generally Durant Insulated Pipe, Division of Ricwil, Inc., B-194833, January 17, 1980, 80-1 CPD 55.

Since Dr. Robocker has presented no facts or legal arguments which establish that our earlier decision was erroneous, that decision is affirmed.

for *Harry R. Van Cleve*  
Comptroller General  
of the United States